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EXAMINER				
KEEFE, MICHAEL E				
ART UNIT		PAPER NUMBER		
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03/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/773,130

**Applicant(s)**

ALPERT ET AL.

**Examiner**

MICHAEL E. KEEFER

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 2/24/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is responsive to the Election filed 2/5/2008 and the Application filed 2/5/2004.

#### ***Election/Restrictions***

2. Applicant's election without traverse of group I in the reply filed on 2/5/2008 is acknowledged.

#### ***Specification***

3. The disclosure is objected to because of the following informalities: In the brief description of the drawings, some drawings are missing their associated brief description. See pages 8 and 9.

Appropriate correction is required.

#### ***Claim Objections***

4. Claim 2 is objected to because of the following informalities: it is suggested that in line 5 the phrase --the rendering server-- be inserted between the words "commands," and "performs" to improve the clarity of the claim. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Freishtat et al. (US 5945989), hereafter Freishtat.

Regarding claim 1, Freishtat discloses:

A system for assembling and distributing multi-media output, comprising:

a rendering server; (Fig. 1, publisher 110 renders changes in the website)

a web server; and (Fig. 1, system 101, specifically noting web interface

107)

storage, wherein the servers and the storage are operably coupled; (there are many types of storage disclosed both explicitly and inherently that are coupled to the servers. For instance, Fig. 16, database 208. Col. 10, lines 62-67 disclose media being stored.)

the storage adapted to receive digital media and properties of the media, store the media and the properties, and transmit the media and the properties; (see Fig. 11, and Col. 8 which disclose types of files with properties being sent into storage.)

the web server adapted to perform at least one of a following action:

retrieve the media and properties of the media; (Col. 8, the description of Fig. 11 shows the web server retrieving changes from a user, such as the type of audio)

manipulate the media and the properties;

assemble the properties; and (Col. 8, the description of Fig. 11 shows the web server assembling the properties as it creates a preview view of the webpage)

transmit at least one of a following element from a group consisting of: the properties; and the assembled properties; and (Col 10, lines 20-40 disclose sending the media and properties to the rendering server.)

the rendering server adapted to receive commands from the web server. (Col 10, lines 20-40 disclose sending the media and properties to the rendering server.)

Regarding claim 2 as applied to claim 1, Freishtat discloses:

wherein the commands include at least one of a following element from a group consisting of: the properties; and the assembled properties; and (Col. 10, lines 62-67)

based on the commands, performs at least one of a following action:

retrieve the media based on the commands; (Col. 10, lines 62-67)

render the retrieved media; and (The Publisher 110 in Fig. 1

aggregates and renders the changes into a final web page)

store the retrieved media on the storage; and

transmit the retrieved media to a destination.

Regarding claim 3 as applied to claim 1, Freishtat discloses:

further comprising an audio capture module operably coupled to the web server, the audio capture module adapted to capture audio and

DTMF tones, encode the captured audio, and transmit the encoded audio and ~.information related to a call involved with generating the DTMF tones. (Col. 9 lines 38-50 disclose audio capture and dial tone capture related to the web server)

Regarding claim 4 as applied to claim 1, Freishtat discloses:

wherein the digital media comprises at least one of a following type of media from a group consisting of: video; audio; still images; file attachments; animation; and HTML. (Col. 9 lines 38-50 disclose audio, still images, and html)

Regarding claim 5 as applied to claim 1, Freishtat discloses:

wherein the manipulation of the media comprises at least one of a following action: copy the media; delete the media; and rename the media. (Fig. 10 discloses deleting a web page)

Regarding claim 6 as applied to claim 1, Freishtat discloses:

wherein the manipulation of the properties is adapted to change a value of the properties. (Fig. 10 discloses deleting a web page)

Regarding claim 9 as applied to claim 1, Freishtat discloses:

wherein the commands further include at least one of a following element from a group consisting of: a destination; and a type of the media. (Col. 10 lines 62-67 disclose sending a destination of the binary data)

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freishtat as applied to claim 1 above, and further in view of Agarwal et al. (US 6314466), hereafter Agarwal.

Freishtat discloses all the limitations of claims 7-8 except for sequencing properties.

The general concept of including a sequence property in a media file is well known in the art as taught by Agarwal. (At least Col. 14 line 13-20 discloses a media object having a segment or sequence number.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Freishtat with Agarwal to allow a user to upload content in a certain order and to break a content into smaller pieces.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL E. KEEFER whose telephone number is (571)270-1591. The examiner can normally be reached on Monday through Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MEK 2/29/2008

/Nathan J. Flynn/  
Supervisory Patent Examiner, Art Unit 2154